

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Sosa, et al. Examiner: Hibbert, Catherine S  
Serial No.: 10/539,476 Group Art Unit: 1636  
Confirmation No.: 4933 Docket: 976-26 PCT/US  
Filed: June 20, 2005 Dated: April 10, 2008  
For: ARTIFICIAL PROMOTER  
FOR THE EXPRESSION  
OF DNA SEQUENCES IN  
VEGETAL CELLS

Commissioner for Patents  
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**RESPONSE TO RESTRICTION REQUIREMENT**

Sir:

In an Office Action mailed January 10, 2008, the Examiner imposed a Restriction Requirement to one of the following inventions:

Group I: Claims 1-31, 55, and claim 57, drawn to an artificial promoter, a cassette and a vector.

Group II: Claims 32-54, 56, and claim 57, drawn to a DNA fragment from an artificial promoter, a cassette and a vector.

Group III: Claim 58, drawn to a bacterial cell.

Group IV: Claims 59-61, and claims 71-72, drawn to a plant cell and use of recombinant proteins produced.

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Group V: Claims 62-70, and claims 71-72, drawn to a transgenic plant(s) and use of recombinant proteins produced.

The Examiner also imposed an Election of Species Requirement. Starting on page 6 of the office action, the Examiner states that if Applicant elects Group I, Applicant must further elect:

i) only one type of 5' transcription regulation element (or one combination of regulator elements operatively fused, claim 22) from between "artificial" (claim 2) and "homologous to a DNA sequence that naturally enhances and/or regulates gene expression in plant cells" (claim 3).

(1) If Applicant elects the type "artificial" (claim 2), Applicant must further elect:

(a) only one type of element from between wherein the element is an *as-1*-like transcriptional enhancer (claim 11) and wherein the element is from the rice gluteline B-1 gene (claim 17).

(b) only one type of control of gene expression from among developmental, organ-specifically, tissue-specificity, expression in seeds, in plant cells under biotic stress, in plant

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cells under abiotic stress, and in wounded plant tissue (claims 15, 16, 20 and 21).

(2) If Applicant elects the type “homologous to a DNA sequence that naturally enhances and/or regulates gene expression in plant cells” (claim 3), Applicant must further elect:

(a) only one type of element from among rice, maize and viral (claims 4, 8 and 13).

(i) Furthermore, if Applicant elects rice (claim 4), Applicant must further elect only one type from between SEQ. ID NO: 10 and SEQ ID NO: 11 (claims 6 and 7).

ii) only one type of first exon from between those in claims 23 and 24.

iii) only one type of second exon from between those in claims 27 and 28.

iv) only one type of exon/intron/exon region from among SEQ. ID NO:s 6, 8 and 20 (claims 26 and 30-31).

On page 8 of the office action, the Examiner states that if Applicant elects Groups I, II, III, IV or V, Applicant must further elect:

- only one type of DNA vector from between “for the expression of DNA sequences in plant cells containing an artificial promoter responding to claim 1” and “for the

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expression of DNA sequences in plant cells containing a transcription enhancer element functionally fused to a DNA fragment from an artificial promoter according to claim 1 such that, when fused to a promoter functional in plants, contributes to enhanced expression of DNA sequences controlled by said promoter" (claim 57).

The Examiner further imposed a species election requirement for claim 57. The examiner states that

- If Applicant elects Group I, Applicant must elect the species "for the expression of DNA sequences in plant cells containing an artificial promoter responding to claim 1."
- If Applicant elects Group II, Applicant must elect the species "for the expression of DNA sequences in plant cells containing a transcription enhancer element functionally fused to a DNA fragment from an artificial promoter according to claim 1 such that, when fused to a promoter functional in plants, contributes to enhanced expression of DNA sequences controlled by said promoter."